

## DECISION MEMORANDUM

**TO:** COMMISSIONER KEMPTON  
COMMISSIONER SMITH  
COMMISSIONER REDFORD  
COMMISSION SECRETARY  
COMMISSION STAFF

**FROM:** DON HOWELL, DEPUTY ATTORNEY GENERAL  
TERRI CARLOCK

**DATE:** NOVEMBER 4, 2010

**SUBJECT:** IDAHO POWER'S REQUEST TO CHANGE THE START OF AN  
AMORTIZATION PERIOD ESTABLISHED IN ACCOUNTING ORDER  
NO. 30940 FROM JANUARY 1, 2011 TO JANUARY 1, 2012, CASE NOS.  
IPC-E-09-21/10-28

On October 13, 2010, Idaho Power filed an Application to change the beginning of a three-year amortization period set out in accounting Order No. 30940 (Case No. IPC-E-09-21) from January 1, 2011 to January 1, 2012. In Order No. 30940 issued October 30, 2009, the Commission authorized the Company to record and defer its unrecovered transmission-related costs that were disallowed in a transmission rate case before the Federal Energy Regulatory Commission (FERC) in Docket No. ER06-787. In the present Application, the Company requests that the Commission amend its accounting Order No. 30940 "by the end of 2010." Application at ¶ 13. Consequently, Idaho Power requests that the Commission expedite its review of the current Application. The Company further requests that the Commission process this case under Modified Procedure.

### BACKGROUND

#### *A. The FERC Proceeding*

In March 2006, Idaho Power filed an application with FERC requesting an increase in its transmission rates subject FERC's jurisdiction. In its filing, the Company proposed to revise its Open Access Transmission Tariffs (OATT) from "stated" rates to "formula" based rates. Formula rates would be updated annually based upon Idaho Power's total cost to own, operate and maintain its transmission facilities for its transmission customers. *Order on Initial Decision,*

126 FERC ¶ 61,044 (Jan. 15, 2009). The “formula” rate methodology would use financial data reported annually in the Company’s FERC Form 1.

In the FERC proceeding, the parties were able to settle most of the issues but they were unable to resolve the proper ratemaking treatment of three “Legacy Agreements.” *Id.* at ¶ 11. Starting in the 1960s, Idaho Power entered into three long-term transmission service contracts, commonly referred to as the “Legacy Agreements,” with PacifiCorp to provide transmission service from the Jim Bridger power plant in western Wyoming. Idaho Power and PacifiCorp jointly owned the Bridger facility. Both companies built and now operate transmission lines from Bridger to their respective service territories. Under the terms of the Legacy Agreements, Idaho Power charges PacifiCorp “use of facility fees” to use Idaho Power’s transmission facilities until 2025. *Id.* at ¶¶ 3-9; Order No. 30940 at 2.

The FERC Administrative Law Judge (ALJ) initially determined and FERC subsequently affirmed that Idaho Power’s charges to PacifiCorp under the Legacy Agreements were significantly lower than the OATT rates Idaho Power proposed to charge other customers for similar transmission services. This rate “disparity” between the lower rates in the old Legacy Agreements and the higher OATT rates has grown over time. ¶ at 127. The ALJ found in his initial order that it was unreasonable for Idaho Power to recover its transmission costs from other third-party transmission customers while the Legacy Agreements contain rates for PacifiCorp that are now considered below cost. Because its revenue recovery “was locked in” by the long-term Legacy Agreements, FERC found that Idaho Power must bear the under-recovery of transmission costs on its own. *Id.* ¶ 129; Order No. 30940 at 2.

In response to FERC’s initial decision, Idaho Power took three actions. First, the Company filed a Petition for Rehearing with FERC. FERC subsequently granted the rehearing so it could consider the matter in greater detail. Docket No. ER06-787-006. Second, Idaho Power filed an application with FERC to amend portions of two Legacy Agreements which were subject to change or re-negotiation. FERC Docket No. ER09-1335-000. Third, on July 20, 2009, Idaho Power filed an application for an accounting order requesting that this Commission authorize the deferral of unrecovered transmission costs that were denied in FERC Docket No. ER06-787. The Company estimated its unrecovered transmission costs were approximately \$8.084 million for the period March 2008 through May 31, 2010. The Company noted in its prior application that if it is successful in recovering its transmission costs on rehearing at FERC

or by amending its Legacy Agreements, then the Company “will reduce the deferral” request or balance. *Id.*

### ***B. The Commission’s Accounting Order***

The only comments filed in response to the Company’s July 2009 request for an accounting order were filed by the Commission Staff. The Staff noted that the FERC decision has the effect of reducing the transmission revenue credited to Idaho customers in Idaho rate cases. “With the FERC reconsideration and Legacy Agreement actions incomplete, Staff believes that deferral accounting for these unrecovered transmission revenues is appropriate through May 2010 as requested by Idaho Power. The question whether the deferred amounts should be recovered from Idaho ratepayers is a matter that should be reserved for a future proceeding.” Order No. 30940 at 4.

In issuing the accounting order, the Commission found  
it reasonable to grant the Company’s request for an Accounting Order conditioned with Staff’s recommendations. We authorize the deferral of the unrecovered transmission-related revenues through May 31, 2010, as requested by the Company. . . . We find that an amortization period of three (3) years is reasonable and that the amortization period should begin on January 1, 2011.

. . . the Commission specifically reserves the right to determine in a future proceeding whether Idaho Power may appropriately recover the deferred amounts from Idaho customers. Granting the requested Accounting Order will allow Idaho Power to pursue its two other recovery options at FERC (rehearing and amending portions of the Legacy Agreements) while deferring transmission-related costs/revenues.

Order No. 30940 at 6 (emphasis added).

### **THE CURRENT APPLICATION**

In its current Application, Idaho Power notes that it has amended two of the Legacy Agreements with PacifiCorp. Idaho Power terminated one of the Legacy Agreements (the Restated Transmission Service Agreement – RSTA) and replaced the old contract rate with its OATT rate in a new RSTA contract effective June 13, 2009. Idaho Power asserts that this change decreased the estimated deferral balance by approximately \$2.81 million. Application at ¶ 4; Atch. 2. In another Legacy Agreement (the Interconnection and Transmission Service Agreement – ITSA), Idaho Power increased the old legacy rates to higher OATT point-to-point

service rates on August 19, 2009. Idaho Power reports that the amendment of the ITSA decreases the deferral by approximately \$2.918 million. Application at ¶ 5; Atch. 3.<sup>1</sup>

Idaho Power also reports in its current Application that it found errors in the calculation of its OATT formula rate for the 2006, 2007 and 2008 test years. “The errors in the OATT formula rate overstated the Company’s calculation of additional revenues received as a result of the termination of the RTSA as well as the calculation of additional of ITSA revenues. . . .” Application at ¶ 7. The Company also noted that it is in the process of issuing refunds for the OATT errors. In addition, the errors in the OATT rates also caused the Company to miscalculate the original deferral calculation. *Id.* at ¶ 8. The “net change of the deferral based on the actual OATT rates in effect is a \$360,055 reduction.” *Id.*

The Company calculates that the current deferral balance is \$2,064,469. Below is a summary of the proposed changes to the deferral balance.

<b>DEFERRAL ITEM</b>	<b>DEFERRAL AMOUNT</b>
Initial Deferral Estimate	\$8,084,251
New RTSA Deferral Change	(2,810,178)
New ITSA Deferral Change	(2,918,448)
RTSA Revenue Correction	38,361
ITSA Revenue Correction	30,538
OATT Deferral Correction	(360,055)
Total Current Deferral	\$2,064,469

Source: Application at 5

“Idaho Power respectfully requests authorization of the deferral amount of \$2,064,469 of unrecovered transmission revenues.” *Id.* at ¶ 9.

The Company also requests that the beginning of the three-year amortization period shift from January 1, 2011 to January 1, 2012. The Company maintains that prior to receiving the Commission’s accounting Order No. 30940, Idaho Power began settlement discussions “and entered into a stipulation committing that it would not file a general revenue requirement case which would result in a general rate adjustment to become effective prior to January 1, 2012.” *Id.* at ¶ 10. The Company is requesting a postponement in the beginning of the amortization period “[b]ecause the Stipulation does not allow the Company to recover the deferred transmission costs now. . . .” *Id.*

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<sup>1</sup> In July 2010, FERC approved the parties’ settlement that included the rate changes in the ITSA and RTSA contracts. FERC Docket No. ER09-1335.

As previously mentioned, Idaho Power requests that this matter be processed under Modified Procedure and the Commission expedite its review of the Application.

### STAFF ANALYSIS

1. Modified Procedure. Staff agrees with the Company's request that this matter may be processed under Modified Procedure. Accordingly, Staff recommends that the Commission set a deadline for initial comments within 21 days and set a reply date 7 days later.

2. New Case. Idaho Power has filed the present Application using the case number from last year's application for an accounting order in Case No. IPC-E-09-21. In its Application, the Company cites Commission Rule 52, which defines "Applications." IDAPA 31.01.01.052. Staff notes that accounting Order No. 30940 was a "Final Order" issued October 30, 2009. Rather than an application, Staff believes this pleading is more appropriately defined as a "Petition" because it seeks to amend an existing accounting order. Rule 53 (compare Rules 52 and 53). Consequently, Staff recommends that this case be considered a new pleading and identified as Case No. IPC-E-10-28.<sup>2</sup>

### COMMISSION DECISION

1. Does the Commission concur that this matter may appropriately be processed under Modified Procedure with a 21-day comment period and 7-day reply period?

2. Should this case be processed as a "Reopened" case IPC-E-09-21, or should this matter be considered a new case and assigned Case No. IPC-E-10-28?

3. Should the Petition to Intervene be "transferred" to Case No. IPC-E-10-28?



Don Howell  
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<sup>2</sup> On November 1, 2010, the Industrial Customers of Idaho Power (ICIP) filed a Petition to Intervene in this case. Staff would also recommend that the Commission Secretary make a pen and ink change on the ICIP Petition noting the corrected case number, assuming that the Commission adopts the Staff's recommendation that this matter should be considered a new case.